

MINUTES
CITY COUNCIL AD HOC COMMITTEE ON ETHICS
TENTH FLOOR CONFERENCE ROOM
MONDAY, MAY 16, 1994 -- 6:00 P.M.

Meeting was called to order at 6:15 p.m.

MEMBERS PRESENT:

Councilmember Rick Lilly, Chair
Councilmember Ellen Beal, Vice-Chair
Councilmember Sandy Allen, Member -- excused absence

OTHERS PRESENT:

John Mertz, Board of Ethics Chair
James Smiertka, City Attorney
Lloyd Teets, Citizen
Harold Leeman, Citizen
Tina Gallante, Council Staff

APPROVAL OF MINUTES

There were no minutes approved.

ACTION/DISCUSSION

APPOINTMENTS TO VACANCIES

COUNCILMEMBER BEAL MOVED TO RECOMMEND THE REAPPOINTMENT OF JOHN MERTZ AND JOYCE MEISSNER TO THE ETHICS BOARD. MOTION CARRIED, 2-0.

PROPOSED CHARTER AMENDMENTS

The Committee referred to Draft #1 of the Proposed Charter Amendments for the Board of Ethics. Councilmember Beal began discussion by pointing on the fact that the Board shall now consist of eight members. She questioned if the Board would ever run into the

same problem as the Council does having an even number of membership on the Board as opposed to an odd number.

Mr. Mertz pointed out several reasons for the membership being increased. He does not see the even number posing a problem as most of the business is done by consensus. Councilmember Lilly added it will also allow the Board to form subcommittees when needed.

The Committee then engaged in discussion relative to 5-503 (1). After consideration of the wording the Committee made the following change:

Page 3, second sentence. Delete "Informal" and insert "Written". Reading as:

*"**Written** opinions of the Board of Ethics shall be filed with the City Clerk and are open to public inspection."*

Councilmember Lilly stated one of the key changes made to this section is the first sentence under 5-502 (1) in that the Board is now a review board and not an advisory board.

The Committee then discussed section 5-503(3). Councilmember Lilly requested the word "ethically" be inserted within the second sentence so that it reads:

*"If the Board finds a prior action of the Mayor, Council, Officer, or employee to have been **ethically** improper, . . ."*

The Committee agreed on the addition.

Councilmember Lilly also stated he would feel more comfortable if the word "demand" was changed, questioning how a Board can demand action from a legislative body.

Mr. Mertz explained the wording of these amendments came from the ACLU. The Board wanted to make certain there was a definite accountability or response back to them after a recommendation is made. They do not want their recommendation simply filed away as they are trying to "force" the body to bring the item back under their agenda and reconsider the initial action. He referred to the Early Retirement issue in that it cost the taxpayers a lot of money to bring the matter to Court. If the Board feels that the legislative body made an incorrect decision on a matter, they want to "force" that body to revisit the issue for reconsideration and alleviate spending unnecessary money.

Councilmember Lilly suggested that the word "*recommend*" could be used instead of demand. He questioned what would be the penalty if the Council did not reconsider a decision made? Mr. Smiertka stated that a Writ of Mandamus would have to be ordered through a Court of law. He commented this was a very touchy section and one he spent a great amount of time on. He feels he would have to look at this section again with State law and the Home Rule.

Pending.

BOARD OF ETHICS PROPOSED RULES OF PROCEDURE

Mr. Mertz indicated these are rules with minor changes made due to inconsistent provisions. For example, the Board now needs three people agreeing on a matter and often times there are not enough members attending the meeting.

Mr. Smiertka indicated he has approved the proposed rules.

COUNCILMEMBER BEAL MOVED TO ACCEPT THE PROPOSED RULES AND RECEIVE AND PLACE THEM ON FILE. MOTION CARRIED, 2-0.

ADJOURN:

Meeting was adjourned at 6:55 p.m.

Respectfully submitted,

**Tina M. Gallante
Legislative Secretary**

Approved by the Committee.

Signed by:



COUNCILMEMBER RICK LILLY, CHAIR

Appropriate documents attached.